

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re Case No. 04-57874 JRG  
MARY SARAH VERNON, Chapter 13  
Debtor.

\_\_\_\_\_/

**ORDER PROVIDING FOR ABSTENTION OF CERTAIN  
NON-BANKRUPTCY ISSUES; MODIFYING THE AUTOMATIC STAY  
TO PERMIT RESOLUTION IN STATE COURT;  
AND STAYING CERTAIN PROCEEDINGS IN THE BANKRUPTCY COURT**

For the reasons stated in the Memorandum Decision In Support Of  
Order Setting Forth Procedures For Resolution of Disputed Issues filed  
concurrently herewith, IT IS HEREBY ORDERED:

1. The bankruptcy court abstains from hearing issues existing  
prior to the filing of this bankruptcy on December 28, 2004 that arise  
in:

(a) Santa Cruz County Superior Court Case Number CV 149889;

(b) Santa Cruz County Superior Court Case Number FL 019889,  
including the appeal and any issues involving the temporary  
restraining order, if any remain; and

(c) Any other issues, arising prior to the filing of the

1 bankruptcy on December 28, 2004, that need to be determined to resolve  
2 the relationship between Mary Sarah Vernon and James McBurney, and any  
3 liability either party has to the other based on actions taken prior  
4 to bankruptcy. In addition, the alleged liability of Vernon relating  
5 to a post-petition report to the police regarding McBurney's alleged  
6 violations of the temporary restraining order and/or mutual  
7 restraining order shall be heard by the state court.

8 All other issues arising from and after the filing of the  
9 bankruptcy shall remain to be resolved by this court.

10 2. The automatic stay of 11 U.S.C. § 362(a) is modified to  
11 permit the parties to proceed in state court to resolve the matters  
12 listed in paragraph 1 above.

13 However, should McBurney obtain any relief against Vernon, the  
14 automatic stay shall continue in effect and McBurney shall not be  
15 permitted to enforce such relief without further order from the  
16 bankruptcy court.

17 3. The following proceedings pending in the bankruptcy court  
18 are hereby stayed until further order of the court:

19 (a) McBurney's objection the confirmation of Vernon's  
20 Chapter 13 Plan;

21 (b) McBurney's Proof of Claim;

22 (c) Adversary Proceeding No. 05-05026;

23 (d) Adversary Proceeding No. 05-05554; and

24 (e) Adversary Proceeding No. 05-05585.

25 4. Confirmation on this case will be calendared by the Chapter  
26 13 trustee every three months for tracking purposes while the state  
27 court litigation is proceeding, starting with a continuance from April  
28 20, 2006.

1           5.     Vernon shall, and McBurney may at his own option, serve on  
2 the Chapter 13 trustee a brief quarterly update of the status of the  
3 pending state court litigation. The quarterly report shall be served  
4 on or before March 31, June 30, September 30 and December 31 until the  
5 litigation is determined. The first update is due on June 30, 2006.

6           6.     After the state court proceedings listed in paragraph 1  
7 above are determined, the Chapter 13 trustee shall file and serve on  
8 Vernon, Vernon's counsel, McBurney, the Internal Revenue Service,  
9 Andrew Gromeeko and the United States Trustee a notice that the next  
10 calendared confirmation hearing will discuss procedural matters and  
11 will not be merely for tracking purposes. The state court litigation  
12 shall be considered determined if concluded by the trial court whether  
13 or not any appeal is filed by either party.

14 DATED: \_\_\_\_\_  
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18 JAMES R. GRUBE  
19 UNITED STATES BANKRUPTCY JUDGE  
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1 Case No. 04-57874 JRG

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5 UNITED STATES BANKRUPTCY COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

7 CERTIFICATE OF MAILING

8 I, the undersigned, a regularly appointed and qualified Judicial Assistant in the office of the  
9 Bankruptcy Judges of the United States Bankruptcy Court for the Northern District of California, San  
Jose, California hereby certify:

10 That I, in the performance of my duties as such Judicial Assistant, served a copy of the Court's  
11 **ORDER PROVIDING FOR ABSTENTION OF CERTAIN NON-BANKRUPTCY ISSUES;**  
12 **MODIFYING THE AUTOMATIC STAY TO PERMIT RESOLUTION IN STATE COURT;**  
13 **AND STAYING CERTAIN PROCEEDINGS IN THE BANKRUPTCY COURT** by depositing it  
in the United States Mail, First Class, postage prepaid, at San Jose, California on the date shown below,  
in a sealed envelope addressed as listed below.

14 I declare under penalty of perjury under the laws of the United States of America that the  
foregoing is true and correct.

15 Executed on \_\_\_\_\_ at San Jose, California.

16  
17 \_\_\_\_\_  
18 LISA OLSEN

19 Office of the U.S. Trustee  
20 U.S. Courthouse/Federal Bldg.  
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